05/12/07

(17)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Misc. Appeal (C) No. 1385 of 2007

Appellant : Smt. Madhu Agrawal aged about 49 years wife of Shri Surendra Kumar Agrawal Through Power of Attorney Holder Mr. Surendra Kumar Agrawal son of Shri Hanumantlal Agrawal resident of Opposite EWS 50 Nehru Nagar, Bilaspur 495001 CG

Versus

Respondents

1. Shri Banshial Yadav son of not-known Driver, resident of Titli Pada, Somandi, Distt. Balangir, residing at present at Suraj Bada, Near Kali Mandir, Tifra, Bilaspur C.G.

2. Shailesh Agrawal son of Shri Mahesh Agrawal aged about 32 years, resident of Indu Chowk, Jarhabhata, near Vija Motors, Bilaspur C.G.

3. The New India Assurance Company Limited, Through the Manager, Rajendra Nagar Chowk, Bilaspur C.G.

Appeal under Section 173 of the Motor Vehicle Act

Present : Shri Ravish Verma, counsel for the appellant.

ORAL ORDER

(Passed on 03rd December, 2007)

The following oral order of the Court was passed by Hon'ble Jagdish Bhalla, Ag. C.J.

By way of this appeal the appellant prays for enhancement of compensation awarded towards damages of the car.

Learned counsel for the appellant submits that new Indica Car, was involved in the accident. However, neither the model of the car nor the year of its purchase as a new car was proved by the appellant. In such circumstances even the depreciation value cannot be worked out. The appellant claims that the cost of the car on the day he filed the claim petition was Rs.3,55,000/- but the appellant has been awarded only Rs.1,01,375/-.

We find that the Tribunal has awarded the said amount towards the damages of the car considering the facts and circumstances of the case. The appellant has not indicated any arbitrary action on the part of the Tribunal which could have made us interfere with the impugned award.

Learned counsel for the appellant further submits that there is no prosecution against the deceased-driver to prove rash and negligent driving. This submission is turned down as no prosecution can be launched against a dead person.

In view of the above, the appeal stands dismissed.

Sd/-
Ag. Chief Justice

Sd/-
Satish K. Agnihotri
Judge

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